

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANIEL HORECEK,

Plaintiff,

v.

Case No. 1:20-cv-11682

District Judge Thomas L. Ludington

Magistrate Judge Anthony P. Patti

CARTER, *et al.*,

Defendants.

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**ORDER REGARDING STATUS CONFERENCE AND ORDER DENYING  
WITHOUT PREJUDICE PLAINTIFF’S MOTION FOR APPOINTMENT  
OF COUNSEL (ECF No. 18), DENYING PLAINTIFF’S MOTION FOR A  
PROTECTIVE ORDER AND/OR TO QUASH OR MODIFY SUBPOENA  
(ECF No. 19), AND GRANTING IN PART AND DENYING IN PART  
PLAINTIFF’S MOTION FOR CONTEMPT AND SANCTIONS (ECF No.  
24)**

This matter came before the Court for consideration of: (1) Plaintiff’s motion for appointment of counsel (ECF No. 18); (2) Plaintiff’s motion for a protective order and/or to quash or modify the subpoena (ECF No. 19), the response in opposition filed by Defendants Beth Carter and Michael E. Havens (the Corizon Defendants) (ECF No. 25), and Plaintiff’s reply brief (ECF No. 32); and (3) Plaintiff’s motion for contempt and sanctions (ECF No. 24), the Corizon

Defendants' response in opposition (ECF No. 26), and Plaintiff's reply brief (ECF No. 31).<sup>1</sup>

Upon consideration of the motion papers and oral argument, and for all of the reasons stated on the record by the Court, which are hereby incorporated by reference as though fully restated herein, the Court **ORDERS** as follows:

- (1) Plaintiff's motion for appointment of counsel (ECF No. 18) is **DENIED WITHOUT PREJUDICE** for the reasons stated on the record.
- (2) Plaintiff's motion for a protective order and/or to quash or modify the subpoena (ECF No. 19) is **DENIED** for the reasons stated on the record.<sup>2</sup> However, the Court **ORDERS** that counsel for the Corizon Defendants file a supplemental response by **Wednesday, October 13, 2021**, indicating whether she served notice of the subject subpoena upon Plaintiff prior to service upon the subpoena upon the MDOC in accordance with Fed. R. Civ. P. 45(a)(4), and if so, providing details of the service.
- (3) Plaintiff's motion for contempt and sanctions (ECF No. 24) is **GRANTED IN PART** and **DENIED IN PART**. Although the Court **DENIES** Plaintiff's request for contempt and sanctions, for the reasons stated on the record, the Court **ORDERS** that:
  - Plaintiff sign a medical records release form within 21 days of receipt of such a form.

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<sup>1</sup> In a September 14, 2021 text-only order, the Court stated: "Although untimely under E.D. Mich. Local Rule 7.1(e)(1)(B), Plaintiff's motions for leave to file reply briefs (ECF Nos. 31 and 32) are GRANTED. The Court will consider ECF No. 31 Plaintiff's reply to ECF No. 26, and ECF No. 32 Plaintiff's reply to ECF No. 25."

<sup>2</sup> On the record at the hearing, the Court mistakenly stated that it was granting in part and denying in part Plaintiff's motion for a protective order and/or to quash or modify the subpoena (ECF No. 19), and denying Plaintiff's motion for contempt and sanctions (ECF No. 24). The Court meant the opposite, as provided above; of course, the Court speaks through its written orders.

- The MDOC Defendants produce to Plaintiff, **by Wednesday, October 27, 2021**, Bates-stamped copies of the CHJ-549 healthcare request forms (“KITES”) that are referenced in ECF No. 24, PageID.147, ¶ 3, as originally requested through present.
  - The MDOC Defendants produce by **Wednesday, November 3, 2021**, for Plaintiff’s review, all of Plaintiff’s medical records from December 1, 2019, through October 6, 2021. Should Plaintiff so choose, he may then request production or copies of those records pursuant to MDOC policy.
  - By **Wednesday, October 27, 2021**, counsel for both the Corizon Defendants and the MDOC Defendants must produce to Plaintiff a list of every individual who accessed Plaintiff’s medical files from September 16, 2020 onward, with the exception of Plaintiff’s medical providers, and file proof of service upon Plaintiff with the Court.
- (4) Counsel for the MDOC Defendants must, **by Friday, October 15, 2021**, inform the Court in writing whether the MDOC can and will be accepting service on behalf of Defendants Sims, Cindy LNU, and Lisa Adray, for whom it appears service has not yet been completed.<sup>3</sup>

**IT IS SO ORDERED.**

Dated: October 12, 2021



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Anthony P. Patti  
UNITED STATES MAGISTRATE JUDGE

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<sup>3</sup> The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days after being served with a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).